

Kevin C. Baumgardner, WSBA No. 14263
Jeff Bone, WSBA No. 43965
Lucio Maldonado, WSBA No. 54279
CORR CRONIN LLP
1001 Fourth Avenue, Suite 3900
Seattle, WA 98154-1051
Telephone: 206-625-8600
kbaumgardner@corrchronin.com
jbone@corrchronin.com
lmaldonado@corrchronin.com

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
AT

CLAUDIA CARRILLO, a single
person,

Plaintiff,

vs.

LAMB WESTON HOLDINGS, INC., a
foreign corporation, and XYZ CORP., a
foreign corporation, limited liability
company, limited liability partnership,
partnership, or sole proprietorship,

Defendants.

No.

NOTICE OF REMOVAL

TO: Clerk of the Court;

AND TO: Plaintiff above named, and his counsel of record.

Pursuant to 28 U.S.C. §§ 1332, 1367(a), 1441, and 1446, Defendant
LAMB WESTON HOLDINGS, INC., by and through its counsel of record, and
without waiving any rights or defenses, hereby removes to this Court the lawsuit
captioned *Claudia Carrillo v. Lamb Weston, Inc., et al.*, No. 21-2-00116-13 in

1 the Superior Court of the State of Washington for Grant County. As grounds for
2 removal, Defendant states as follows:

3 1. Plaintiff Claudia Carrillo filed this lawsuit on February 23, 2021
4 under Grant County Superior Court Cause No. 21-2-00116-13. A true and correct
5 copy of the Complaint is attached to this Notice as **Exhibit A** (“Complaint”).
6

7 2. Defendants were served with the Complaint and Summons on
8 Friday, March 22, 2021. *See* Declaration of Jeff Bone (“Bone Decl.”), ¶ 2. All
9 Defendants join in this Notice of Removal.

10 3. The case stated by the initial pleading was not removable on a
11 diversity basis because there was not complete diversity. Since then, Plaintiff has
12 moved to voluntarily dismiss the unnecessary parties, and the remaining parties
13 are in complete diversity. The Grant County Superior Court granted the voluntary
14 dismissal on May 10, 2021. Because the voluntary dismissal established that the
15 Parties are now in complete diversity, the case become removable on diversity
16 grounds. Because Lamb Weston Holdings, Inc. filed its Notice of Removal within
17 30 days of the Grant County Superior Court’s order granting voluntarily
18 dismissal, this Notice of Removal is timely filed pursuant to 28 U.S.C. §
19 1446(b)(3).
20
21

22 4. Plaintiff’s Complaint avers that she was injured on or about March
23 5, 2018. *See* Complaint ¶ 8.
24

1 5. The Complaint alleges that at “all times relevant hereto, plaintiff
2 Claudia Carrillo was a resident of Grant County, Washington.” *Id.* ¶ 1.

3 6. Defendant is not a citizen of the State of Washington.

4 7. As averred in the Complaint, Defendant is a foreign corporation. *Id.*
5 ¶¶ 2-7.

6 8. “Where the complaint is silent as to the amount demanded, the
7 burden is on the defendant to prove by a preponderance of the evidence that the
8 amount in controversy exceeds \$75,000.” *Matthiesen v. Autozone Stores, Inc.*, No.
9 2:15-CV-0080-TOR, 2015 WL 3453418, at *1 (E.D. Wash. May 29, 2015) (citing
10 *Kroske v. U.S. Bank Corp.*, 432 F.3d 976, 980 (9th Cir. 2005)). In determining
11 the amount in controversy, the court may consider whether it is “facially apparent”
12 from the complaint that the demand exceeds \$75,000. *Abrego Abrego v. Dow*
13 *Chem. Co.*, 443 F.3d 676, 690 (9th Cir. 2006) (quoting *Singer v. State Farm Mut.*
14 *Auto. Ins. Co.*, 116 F.3d 373, 377 (9th Cir. 1997)). “If not, the court may consider
15 facts in the removal petition, and may ‘require parties to submit summary-
16 judgment-type evidence relevant to the amount in controversy at the time of
17 removal.’” *Id.* (quoting *Singer*, 116 F.3d at 377).

18 9. Plaintiff avers that she was injured when her “hand suddenly became
19 caught in the conveyor belt / tuber processing equipment and she sustained serious
20 injuries.” Complaint ¶ 9. Plaintiff avers that Defendant is liable for her injury
21
22
23
24

1 and damages under negligence and product liability theories. Complaint ¶¶ 12-
2 16. While the Complaint does not set forth the dollar amount of damages sought,
3 Plaintiff claims she “incurred past and future medical expenses, past and future
4 income loss, permanent disability, impaired earning capacity, general damages
5 for pain and suffering, including loss of enjoyment of life, and other damages, all
6 in amounts to be proven at trial.” Complaint ¶ 17.
7

8 10. Past medical expenses alone amount to \$28,692.56. Bone Decl., ¶ 4.

9 9. Other Washington cases involving similar alleged injuries have
10 resulted in verdicts or settlements in excess of \$75,000. For example:
11

- 12 • *Alex Tran v. Allpak Container*, 16 N.W.P.I. Lit. Rpts. 328, 2016 WL
13 7241503 (2016). Plaintiff, male, age 24, palletizer. Plaintiff had been
14 working for two months as a temporary employee at Allpak
15 Container as a palletizer. This was a fast-paced work environment
16 position that required Plaintiff to offload corrugated boxes from an
17 offload line to a pallet on a SYSTEC conveyor-roller system. While
18 palletizing one day, the pallet got stuck on the conveyor belt and
19 Plaintiff stepped on the free moving conveyor rollers to dislodge the
20 pallet. During the process, he slipped on the rollers, severely injuring
21 his knee. Plaintiff brought this action claiming that the defendant
22 failed to provide him with a safe working environment and in failing
23
24

1 to warn him of fall hazards associated with the conveyor roller
2 system. The defendant argued that it was plaintiff's fault for stepping
3 on the rollers that he knew were slippery, free moving and against
4 safety instructions. Confidential Settlement with damages of at least
5 \$628,284. Bone Decl., **Ex. A.**

- 7 • *Javier Gonzalez v. Farmer's Electric*, N.W.P.I. Lit. Rpts. 92, 2002
8 WL 737007 (2002). Plaintiff, male, worked in Othello, Washington
9 at the Target AG onion processing and packaging plant. Just prior to
10 the subject incident, Plaintiff contended he had been instructed by
11 his supervisor to scrape onion residue from a conveyor roller while
12 the system was shut down for repair. Plaintiff did as he was told and
13 was positioned just below the conveyer belt, working on the belt
14 approximately 2-4 minutes when, without any warning to Plaintiff,
15 the machine was suddenly started. Because of the location of the
16 electrical control panel, Plaintiff's supervisor could not readily see
17 Plaintiff from the supervisor's position when the supervisor turned
18 the conveyor back on. No warning alarm sounded prior to the
19 conveyor starting. Plaintiff's left arm was trapped in the belt and
20 drawn into the large metal roller, and was forcibly amputated at the
21
22
23
24

1 elbow. Plaintiff's arm was held together at the elbow by only skin
2 and a bit of muscle. \$790,000 Settlement. Bone Decl., **Ex. B.**
3

4 10. In light of the alleged severity of Plaintiff's injuries which include
5 permanent physical and mental/emotional components, and in light of other
6 verdicts and settlements in other Washington litigations involving similar alleged
7 injuries, Defendant has proved by a preponderance of the evidence that Plaintiff's
8 alleged damages are in excess of the jurisdictional amount set forth in 28 U.S.C.
9 § 1332(a).
10

11 11. Accordingly, this action is subject to removal to this Court pursuant
12 to 28 U.S.C. §§ 1441(b)(3) and 1332 based on diversity jurisdiction.

13 12. Venue is appropriate in the Eastern District of Washington at
14 Spokane, because the Superior Court of the State of Washington for Grant County
15 is located within this judicial district and division. *See* 28 U.S.C. §§ 128(b),
16 1441(a).
17

18 13. A copy of this Notice of Removal is being served on this date on
19 counsel for Plaintiff pursuant to 28 U.S.C. § 1446(d). Bone Decl., ¶ 5.

20 14. A copy of this Notice of Removal is also being filed this date with
21 the Clerk of the Superior Court of the State of Washington for Grant County, and
22 notice of removal provided therewith pursuant to 28 U.S.C. § 1446(d). Bone
23 Decl., ¶ 6.
24

1 15. By this Notice of Removal, Defendant does not waive and hereby
2 expressly reserve any defenses it may have, including but not limited to any
3 defenses that may be asserted pursuant to Rule 12 of the Federal Rules of Civil
4 Procedure.
5

6
7 DATED this 18th day of May, 2021.

8 CORR CRONIN LLP

9
10 s/ Kevin C. Baumgardner
11 Kevin C. Baumgardner, WSBA No. 14263
12 Jeff Bone, WSBA No. 43965
13 Lucio Maldonado, WSBA No. 54279
14 1001 Fourth Avenue, Suite 3900
15 Seattle, WA 98154-1051
16 Telephone: 206-625-8600
17 Facsimile: 206-625-0900
18 Email: kbaumgardner@corrchronin.com
19 jbone@corrchronin.com
20 lmaldonado@corrchronin.com

21 *Attorneys for Defendant*
22
23
24

CERTIFICATE OF SERVICE

I hereby certify that on May 18 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Patrick R. West, WSBA No. 41949
Thomas J. West, WSBA No. 5857
West Law Firm, P.S.
524 Tacoma Avenue South
Tacoma, WA 98402
(253) 383-4704
patrick@westlawtacoma.com
tom@westlawtacoma.com

Attorneys for Plaintiff

s/ Kevin C. Baumgardner
Kevin C. Baumgardner, WSBA No. 14263
CORR CRONIN LLP
1001 Fourth Avenue, Suite 3900
Seattle, WA 98154-1051
Telephone: 206-625-8600
Facsimile: 206-625-0900
kbaumgardner@corrchronin.com

EXHIBIT A

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR GRANT COUNTY

CLAUDIA CARRILLO, a single person,

Plaintiff,

v.

LAMB WESTON, INC., a foreign
corporation, LAMB WESTON SALES,
INC., a foreign corporation, LAMB
WESTON HOLDINGS, INC., a foreign
corporation, LAMB WESTON BSW,
LLC, a foreign limited liability
company, LAMB
WESTON/MIDWEST, INC., a domestic
corporation, and XYZ CORP., a foreign
corporation, limited liability company,
limited liability partnership, partnership,
or sole proprietorship,

Defendants.

NO. 21-2-00116-13
COMPLAINT FOR DAMAGES

COMES NOW Plaintiff Claudia Carrillo and for complaint alleges:

PARTIES, JURISDICTION AND VENUE

1. At all relevant times hereto, plaintiff Claudia Carrillo was a resident of Grant
County, Washington.

COMPLAINT FOR DAMAGES - 1

West Law Firm, P.S.
524 Tacoma Avenue South
Tacoma, Washington 98402
(253) 383-4704

1 2. At all relevant times hereto, defendant Lamb Weston, Inc. was a foreign
2 corporation, doing business in Grant County, Washington. The defendant owned and/or
3 operated a facility in Grant County, Washington that utilized conveyor belts and tuber
4 processing equipment, and also designed, tested, manufactured, promoted, distributed
5 and/or sold throughout the nation and within the state of Washington conveyor belts and
6 tuber processing equipment.

7
8 3. At all relevant times hereto, defendant Lamb Weston Sales, Inc. was a
9 foreign corporation, doing business in Grant County, Washington. The defendant owned
10 and/or operated a facility in Grant County, Washington that utilized conveyor belts and
11 tuber processing equipment, and also designed, tested, manufactured, promoted,
12 distributed and/or sold throughout the nation and within the state of Washington
13 conveyor belts and tuber processing equipment.

14 4. At all relevant times hereto, defendant Lamb Weston Holdings, Inc. was a
15 foreign corporation, doing business in Grant County, Washington. The defendant owned
16 and/or operated a facility in Grant County, Washington that utilized conveyor belts and
17 tuber processing equipment, and also designed, tested, manufactured, promoted,
18 distributed and/or sold throughout the nation and within the state of Washington
19 conveyor belts and tuber processing equipment.

20
21 5. At all relevant times hereto, defendant Lamb Weston BSW, LLC was a
22 foreign limited liability corporation, doing business in Grant County, Washington. The
23 defendant owned and/or operated a facility in Grant County, Washington that utilized
conveyor belts and tuber processing equipment, and also designed, tested, manufactured,
COMPLAINT FOR DAMAGES - 2

1 promoted, distributed and/or sold throughout the nation and within the state of
2 Washington conveyor belts and tuber processing equipment.

3 6. At all relevant times hereto, defendant Lamb Weston/Midwest, Inc. was a
4 domestic corporation, doing business in Grant County, Washington. The defendant
5 owned and/or operated a facility in Grant County, Washington that utilized conveyor
6 belts and tuber processing equipment, and also designed, tested, manufactured, promoted,
7 distributed and/or sold throughout the nation and within the state of Washington
8 conveyor belts and tuber processing equipment.
9

10 7. At all relevant times hereto, defendant XYZ, Corp. was a foreign corporation,
11 doing business in Grant County, Washington. The defendant designed, tested,
12 manufactured, promoted, distributed and/or sold throughout the nation and within the
13 state of Washington conveyor belts and tuber processing equipment.

14 **FACTUAL ALLEGATIONS**

15 8. On or about March 5, 2018, Claudia Carrillo was performing work for AG
16 World Support Systems at the Lamb Weston raw receiving / processing facility in
17 Quincy, WA Grant County that was owned and/or maintained by defendant Lamb
18 Weston, Inc., Lamb Weston Sales, Inc., Lamb Weston Holdings, Inc., Lamb Weston
19 BSW, LLC, and/or Lamb Weston/Midwest, Inc.
20

21 9. As Claudia was inspecting potatoes on a conveyor belt at the facility, her
22 hand suddenly became caught in the conveyor belt / tuber processing equipment and she
23 sustained serious injuries.

1 10. At the time of the incident, defendants had removed and/or failed to provide
2 proper safety guards for the subject conveyor belt / tuber processing equipment used by
3 the plaintiff.

4 11. Defendants also negligently designed, tested, manufactured, labeled,
5 distributed, marketed and promoted the subject conveyor belt / tuber processing
6 equipment.

7
8 **FIRST CLAIM**

9 **Negligence**

10 12. Defendants committed negligent acts, including but not limited to removing
11 and/or failing to provide safety guards on the subject conveyor belt / tuber processing
12 equipment used by the plaintiff. Defendants also failed to properly warn the plaintiff of
13 the created hazard. As a proximate result of defendants' negligence, the plaintiff has
14 been damaged in amounts to be determined at time of trial.

15 13. Defendants negligently designed, tested, manufactured, labeled, distributed,
16 marketed and/or promoted the subject conveyor belt / tuber processing equipment. As a
17 proximate result of their negligence, the plaintiff has been damaged in amounts to be
18 determined at time of trial.

19 **SECOND CLAIM**

20 **Strict Product Liability**

21 14. The subject conveyor belt / tuber processing equipment was defective,
22 unsafe, and unreasonably dangerous for its intended purpose when it left defendants'
23 control.

